

§ 228.21

any written comments on the recommended decision. All comments, including recommendations from or consultation with the Marine Mammal Commission, must be submitted during the 20-day period to the Assistant Administrator at the previously mentioned address.

§ 228.21 Assistant Administrator's decision.

(a) Upon receipt of the recommended decision and transcript and after the 20-day period for receiving written comments on the recommended decision has passed, the Assistant Administrator shall make a final decision on the proposed regulations and waiver, where applicable. The Assistant Administrator's decision may affirm, modify, or set aside, in whole or in part, the recommended findings, conclusions and decision of the presiding officer. The Assistant Administrator may also remand the hearing record to the presiding officer for a fuller development of the record.

(b) The Assistant Administrator's decision shall include:

- (1) A statement containing a description of the history of the proceeding;
 - (2) Findings on the issues of fact with the reasons therefor; and
 - (3) Rulings on issues of law.
- (4) The Assistant Administrator's decision shall be published in the FEDERAL REGISTER. If the waiver is approved, the final adopted regulations shall be promulgated with the decision.

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

Subpart A—General Provisions

- Sec.
- 229.1 Purpose and scope.
 - 229.2 Definitions.
 - 229.3 Prohibitions.
 - 229.4 Requirements for Category I and II fisheries.
 - 229.5 Requirements for Category III fisheries.
 - 229.6 Reporting requirements.
 - 229.7 Monitoring of incidental mortalities and serious injuries.
 - 229.8 Publication of List of Fisheries.
 - 229.9 Emergency regulations.
 - 229.10 Penalties.

50 CFR Ch. II (10–1–02 Edition)

- 229.11 Confidential fisheries data.
- 229.12 Consultation with the Secretary of the Interior.

Subpart B—Takes of Endangered and Threatened Marine Mammals

- 229.20 Issuance of permits.

Subpart C—Take Reduction Plan Regulations and Emergency Regulations

- 229.30 Basis.
- 229.31 Pacific Offshore Cetacean Take Reduction Plan.
- 229.32 Atlantic large whale take reduction plan regulations.
- 229.33 Harbor Porpoise Take Reduction Plan Implementing Regulations—Gulf of Maine.
- 229.34 Harbor Porpoise Take Reduction Plan—Mid-Atlantic.

FIGURE 1 TO PART 229—DRIFT GILLNET PINGER CONFIGURATION AND EXTENDER REQUIREMENTS

AUTHORITY: 16 U.S.C. 1361 *et seq.*

SOURCE: 60 FR 45100, Aug. 30, 1995, unless otherwise noted.

Subpart A—General Provisions

§ 229.1 Purpose and scope.

(a) The regulations in this part implement sections 101(a)(5)(E) and 118 of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1371(a)(5)(E) and 1387) that provide for exceptions for the taking of marine mammals incidental to certain commercial fishing operations from the Act's general moratorium on the taking of marine mammals.

(b) Section 118 of the Act, rather than sections 103 and 104, governs the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States, other than vessels fishing for yellowfin tuna in the eastern tropical Pacific Ocean purse seine fishery, and vessels that have valid fishing permits issued in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

(c) The regulations of Subpart B also govern the incidental taking by commercial fishers of marine mammals from species or stocks designated under the Act as depleted on the basis of their listing as threatened species or